

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

SECURITIES AND EXCHANGE COMMISSION,))
))
Plaintiff,))
))
v.)	Civil Action No. 1:20-cv-05227
JOHN M. FIFE, CHICAGO VENTURE PARTNERS, L.P., ILIAD RESEARCH AND TRADING, L.P., ST. GEORGE INVESTMENTS LLC, TONAQUINT, INC., AND TYPENEX CO-INVESTMENT, LLC,)	Honorable Nancy L. Maldonado Honorable Heather K. McShain
))
Defendants.))
))

**MOTION BY PLAINTIFF UNITED STATES SECURITIES AND EXCHANGE
COMMISSION FOR CLARIFICATION OF MARCH 16, 2023 ORDER REGARDING
THE COURT'S REQUEST FOR A SUPPLEMENTAL FILING**

Plaintiff United States Securities and Exchange Commission (“SEC”) respectfully files this motion for clarification of the portion of the Court’s March 16, 2023 minute order (Dkt. No. 85) (“Order”) in which the Court requested that the SEC provide supplemental briefing relating to the deliberative process privilege. In support of this motion, the SEC states as follows:

1. On March 15, 2023, the Court conducted a telephonic motion hearing on several discovery motions that the parties had filed, including Defendants’ motion to compel against the SEC. (*See* Dkt. No. 42). During the hearing, the Court requested that the SEC provide supplemental briefing relating to the deliberative process privilege.

2. Following the hearing, the Court issued the Order. In the Order, among other things, the Court stated that the “supplemental filing should address plaintiff’s assertion of the deliberative process privilege as it relates to defendants’ RFD Nos. 27, 31, 41, 54-57, and Interrogatory No. 1.”

3. In connection with Defendants’ motion to compel, the parties had supplied the Court with the SEC’s responses and objections to Defendants’ First Set of Document Requests (*see* Dkt. No. 42-5) and First Set of Interrogatories. (*See* Dkt. No. 42-6).

4. After reviewing the Court’s order, the SEC re-reviewed its responses and objections to Defendants’ discovery requests.

5. In the SEC’s responses and objections to Defendants’ discovery requests, the SEC had referred to the deliberative process privilege in response to Defendants’ document request No. 41 and Interrogatory No. 1, but the SEC did not refer to the deliberative process privilege in response to Defendants’ document request Nos. 27, 31, or 54-57. (*See* Dkt. No. 42-5). The SEC did refer to a different privilege (the common interest doctrine) in response to Defendants’ document request No. 31, but the SEC did not refer to any privilege objections in response to Defendants’ document request Nos. 27 or 54-57. (*Id.*).

6. Because the SEC did not refer to the deliberative process in its responses and objections to Defendants’ document request Nos. 27, 31, or 54-57, the SEC respectfully moves for clarification as to the Court’s request for supplemental briefing on the deliberative process privilege as to the SEC’s responses and objections to these discovery requests.

WHEREFORE, the SEC respectfully requests that the Court: (i) grant this Motion in its entirety; (ii) enter an order clarifying its request for supplemental briefing on the deliberative

process privilege as to the SEC's responses and objections to Defendants' document request Nos. 27, 31, and 54-57; and (iii) grant such other and further relief as this Court deems just.

Dated: March 17, 2023

Respectfully submitted,

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

/s/ Eric M. Phillips

By: One of Its Attorneys

Eric M. Phillips
Jaclyn J. Janssen
Ariella O. Guardi
United States Securities and Exchange Commission
175 W. Jackson Blvd., Suite 1450
Chicago, IL 60604
(312) 353-7390

Counsel for the SEC

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that on March 17, 2023, he caused the foregoing Motion to be electronically filed with the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, using the Court's CM/ECF system, which shall send notification of such filing to the following counsel of record:

Helgi C. Walker
Brian A. Richman
GIBSON, DUNN & CRUTCHER LLP
1050 Connecticut Ave. NW
Washington, DC 20036
Email: hwalker@gibsondunn.com

Barry Goldsmith
M. Jonathan Seibald
GIBSON, DUNN & CRUTCHER LLP
200 Park Avenue
New York, NY 10166-0193
Email: bgoldsmith@gibsondunn.com

Michael J. Diver
Elliott M. Bacon
KATTEN MUCHIN ROSENMAN LLP
525 West Monroe Street
Chicago, IL 60661
Email: Michael.diver@kattenlaw.com

Counsel for Defendants

/s/ Eric M. Phillips
Eric M. Phillips